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TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	09/863,795	
	Filing Date	05/23/2001	
	First Named Inventor	T.L. Barkley	
	Art Unit	3641	
	Examiner Name	A.B. Felton	
Total Number of Pages in This Submission		Attorney Docket Number	DNI-0070 (P-1659-1)

ENCLOSURES (check all that apply)		
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Signature	
Date	September 9, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: T.L. Barkley et al

) Confirmation No: 8926

)

Serial No.: 09/863,795

) Group Art Unit: 3641

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Filed: 05/23/2001

) Examiner: A.B. Felton

)

Title: DETONATING CORD AND METHODS
OF MAKING AND USING THE SAME

)

) Docket No: DNI-0070 (formerly P-1659-1)

Customer No: 23413

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
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RESPONSE TO OFFICE ACTION

Dear Sir:

This paper is responsive to the office action mailed August 11, 2004, in which the Examiner imposed a restriction requirement pursuant to 35 USC 121 among three inventions, identified by the Examiner as follows:

Invention I. Claims 3-12, drawn to an explosive composition;

Invention II. Claims 13-16, 20 and 29, drawn to a process for cleaving rock; and

Invention III. Claims 21-23 and 26-28, drawn to a method of making a detonating cord.

Election With Traverse

Applicant elects, with traverse, to prosecute in this application claims 3-12, identified as Invention I by the Examiner. This election is made with traverse for the reasons set forth below.

DISCUSSION

The Examiner notes that Inventions I and III are related as process of making and product made. The Examiner contends that the claimed inventions are distinct because "the product can be made by spray-coating the sheath onto the explosive."

This ground alleged in support of the restriction requirement is respectfully traversed. Claim 21, the sole independent claim of Invention III, includes as a method step "enclosing the explosive material within a tubular sheath." Claim 3, the sole independent claim of Invention I, defines "a detonating cord comprising an elongate tubular sheath encasing a solid core of an explosive material..." Spray-coating the sheath onto the explosive as contemplated by the Examiner, is embraced by the terminology of both claims. Stated otherwise, making the product by spray-coating the sheath onto the explosive would fall within the scope of both claim 3 and claim 21. Therefore, the claims defining Inventions I and III should both be examined in this application. The product as claimed in claim 3 can only be made by the method claimed in claim 21, and the method as claimed by claim 21 can result only in the product as claimed in claim 3. Therefore, restriction between Inventions I and III is not sustainable; the inventions as claimed must be evaluated for restriction requirements.

With respect to the restriction between the claims grouped by the Examiner as Inventions I and II, the Examiner states that the distinction between these inventions resides in the fact that in the present case "the detonating cord can be used for military purposes."

The process as claimed in claim 13 requires the use of the detonating cord claimed in claim 3. Therefore, the process as claimed cannot be practiced with another, materially different product. Applicants acknowledge that the use of explosives to cleave rock is known in the art, as is the use of mechanical devices. See paragraphs [0007] and [0008] of applicants' specification.


To be sustainable, a restriction requirement must be based on the inventions as claimed. Restriction between Inventions I and III by the Examiner is respectfully traversed.

SUMMARY

Applicants traverse the restriction requirement for the reasons given above, and respectfully request that all pending claims be examined in this application.

Applicants elect, with traverse, the prosecution of claims 3-12 (identified as Invention I by the Examiner) in this application.

Respectfully submitted,



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